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WITHERSPOON, KELLEY,
DAVENPORT, TOOLE, P.S.

Attorneys for The Church of Jesus Christ of
Latter-day Saints and Donald C. Fossum

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

THOMAS A. WAITE,

Plaintiff,

vs.

THE CHURCH OF JESUS CHRIST OF
LATTER DAY SAINTS d/b/a
CORPORATION OF THE PRESIDING
BISHOP OF THE CHURCH OF JESUS
CHRIST OF LATTER DAY SAINTS, a
Utah corporation, d/b/a CORPORATION
OF THE PRESIDENT OF THE CHURCH
OF JESUS CHRIST OF LATTER DAY
SAINTS, a Utah corporation; DONALD C.
FOSSUM; and STEVEN D. BRODHEAD,

Defendants.

Case No.: CV-05-399-EFS

THE CHURCH OF JESUS
CHRIST OF LATTER DAY
SAINTS AND DONALD C.
FOSSUM'S SECOND
INTERROGATORIES TO
THOMAS A. WAITE

AND ANSWERS THERETO

TO: The above-named Plaintiff; and

TO: Richard C. Eymann and Stephen Nordstrom, his attorneys

Pursuant to FRCP 33, defendants The Church of Jesus Christ of Latter Day Saints and Donald C. Fossum herewith submit the following interrogatories to be answered separately and fully under oath within thirty (30) days from the date of service of said interrogatories upon you. In answering the interrogatories, you are required to furnish such information as is available to you, not merely the information which you know of your personal knowledge. This is intended to include any information in the possession of the agent or attorney or investigator for the answering party.

LDS CHURCH/FOSSUM SECOND
INTERROGATORIES TO THOMAS WAITE
AND ANSWERS THERETO - 1

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EXHIBIT

tabbies

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A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS

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1 Court rules require the answers be preceded by the questions and thus extra
2 copies of these interrogatories are being served upon you in order to expedite the
3 answer thereof. You may type your answers immediately after the question and
thus avoid retyping the question.

4 THESE INTERROGATORIES ARE CONTINUING IN NATURE AND
5 DEFENDANTS THE CHURCH OF JESUS CHRIST OF LATTER DAY
6 SAINTS AND DONALD C. FOSSUM HEREBY REQUEST THAT ANY
7 INFORMATION COMING INTO THE POSSESSION OF PLAINTIFF OR
8 PLAINTIFFS' COUNSEL THAT WOULD CHANGE THE ANSWER IN ANY
WAY BE PROMPTLY FURNISHED TO DEFENDANTS THE CHURCH OF
JESUS CHRIST OF LATTER DAY SAINTS' AND DONALD C. FOSSUM'S
COUNSEL, IN ANY EVEN NO LATER THAN THIRTY (30) days after receipt
of such information.

9 DATED this _____ day of February, 2007.

10 **WITHERSPOON, KELLEY, DAVENPORT**
11 **& TOOLE**

12 By:

13 Brian T. Rekofke, WSBA No. 13260
14 Ross P. White, WSBA No. 12136
15 Attorneys for The Church of Jesus Christ
16 of Latter-day Saints and Donald C. Fossum
17

18 **INTERROGATORIES**

19 **INTERROGATORY NO. 13:** At pages 3-4, paragraph number 6.2(a) of your
20 complaint, it is alleged:

21 The injuries and damages as hereinafter alleged occurred as a
22 proximate result of negligence on the part of defendant LDS Church
23 including, but not limited to, the following particulars:

24 (a) The LDS Church knew or should have known that allowing
25 missionaries to ride unrestrained in the bed of the canopied pickup
26

27 LDS CHURCH/FOSSUM SECOND
28 INTERROGATORIES TO THOMAS WAITE
AND ANSWERS THERETO - 2

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1 truck greatly increased the likelihood of injury in the event of any
2 collision;

3 With referenced to the above allegation, set forth all facts, information and
4 evidence you have or know of relating to said allegation or which you intend to
5 offer at trial to prove said allegation, including, but not limited to:

6 a. The contents of or copies of all documents containing or referring to
7 such facts, information and evidence.

8 b. The names, addresses and employment of all persons known or believed
9 to have facts, information or evidence relating to or tending to prove said
10 allegation; and

11 c. For each of said persons, set forth a brief narrative of the facts,
12 information and evidence known or possessed by said person, including the
13 testimony which would be offered at trial if said person were called as a witness.

14 **ANSWER:**

15 OBJECTION. Work product. Without waiving objection, please refer to the
16 depositions of Donald Fossum, Dillon Hansen, Paul Hyde, Ronald Funk, Kevin
17 Ludlow, Clifton Skaggs, Irv Rencher, and Tyler Ryan. Please refer to Declaration
18 of James Ross. Please refer to the Dodge Dakota Owner's Manual, which
19 provides several warnings concerning passengers in the bed of the pickup.

20 Further, Mission leaders were aware that Donald Fossum was carrying
21 passengers in the bed of the pickup and failed to take any action to warn, train,
22 or protect the Missionaries, including Mr. Waite. Moreover, Mr. Waite was
23 trained to always remain with a companion.

24 
25 STEPHEN L. NORDSTROM

26 **INTERROGATORY NO. 14:** At pages 3-4, paragraph number 6.2(b) of your
27 complaint, it is alleged:

28 LDS CHURCH/FOSSUM SECOND
INTERROGATORIES TO THOMAS WAITE
AND ANSWERS THERETO - 3

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1 The injuries and damages as hereinafter alleged occurred as a
2 proximate result of negligence on the part of defendant LDS Church
3 including, but not limited to, the following particulars:

4 (b) In failing to exercise reasonable care to protect its missionaries,
5 including plaintiff Thomas Waite, by providing adequate
6 transportation;

7 With referenced to the above allegation, set forth all facts, information and
8 evidence you have or know of relating to said allegation or which you intend to
9 offer at trial to prove said allegation, including, but not limited to:

10 a. The contents of or copies of all documents containing or referring to
11 such facts, information and evidence.

12 b. The names, addresses and employment of all persons known or believed
13 to have facts, information or evidence relating to or tending to prove said
14 allegation; and

15 c. For each of said persons, set forth a brief narrative of the facts,
16 information and evidence known or possessed by said person, including the
17 testimony which would be offered at trial if said person were called as a witness.

18 **ANSWER:**

19 OBJECTION. Work product. Without waiving objection, please refer to
20 answer to Interrogatory Nos. 13 and 16 regarding depositions and declaration.

21 
22 STEPHEN L. NORDSTROM

23 **INTERROGATORY NO. 15:** At pages 3-4, paragraph number 6.2(c) of your
24 complaint, it is alleged:

25 The injuries and damages as hereinafter alleged occurred as a
26 proximate result of negligence on the part of defendant LDS Church

27 LDS CHURCH/FOSSUM SECOND
28 INTERROGATORIES TO THOMAS WAITE
AND ANSWERS THERETO - 4

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1 including, but not limited to, the following particulars:

2 (c) In failing to have a policy in place prohibiting missionaries from
3 riding in beds of pickups or for having a policy which created the
4 inference that such conduct was acceptable;

5 With referenced to the above allegation, set forth all facts, information and
6 evidence you have or know of relating to said allegation or which you intend to
7 offer at trial to prove said allegation, including, but not limited to:

8 a. The contents of or copies of all documents containing or referring to
9 such facts, information and evidence.

10 b. The names, addresses and employment of all persons known or believed
11 to have facts, information or evidence relating to or tending to prove said
12 allegation; and

13 c. For each of said persons, set forth a brief narrative of the facts,
14 information and evidence known or possessed by said person, including the
15 testimony which would be offered at trial if said person were called as a witness.

16 **ANSWER:**

17 OBJECTION. Work product. Without waiving Objection, please refer to
18 answer to Interrogatory No. 13.

19 
20 STEPHEN L. NORDSTROM

21 **INTERROGATORY NO. 16:** At pages 3-4, paragraph number 6.2(d) of your
22 complaint, it is alleged:

23 The injuries and damages as hereinafter alleged occurred as a
24 proximate result of negligence on the part of defendant LDS Church
25 including, but not limited to, the following particulars:

26
27 LDS CHURCH/FOSSUM SECOND
28 INTERROGATORIES TO THOMAS WAITE
AND ANSWERS THERETO - 5

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1 (d) For failure to exercise reasonable care in the training of its driver
2 missionaries;

3 With referenced to the above allegation, set forth all facts, information and
4 evidence you have or know of relating to said allegation or which you intend to
5 offer at trial to prove said allegation, including, but not limited to:

6 a. The contents of or copies of all documents containing or referring to
7 such facts, information and evidence.

8 b. The names, addresses and employment of all persons known or believed
9 to have facts, information or evidence relating to or tending to prove said
10 allegation; and

11 c. For each of said persons, set forth a brief narrative of the facts,
12 information and evidence known or possessed by said person, including the
13 testimony which would be offered at trial if said person were called as a witness.

13 **ANSWER:**

14 OBJECTION. Work product. Without waiving Objection, please
15 refer to answer to Interrogatory No. 13. Donald Fossum received no training or
16 direction regarding missionaries riding in the bed of the pickup to which he was
17 assigned. He was neither advised to read the owner's manual nor of the warnings
18 contained within the manual.

19 
20 STEPHEN L. NORDSTROM

21 **INTERROGATORY NO. 17:** At pages 3-4, paragraph number 6.2(e) of your
22 complaint, it is alleged:

23 The injuries and damages as hereinafter alleged occurred as a
24 proximate result of negligence on the part of defendant LDS Church
25 including, but not limited to, the following particulars:
26

27 LDS CHURCH/FOSSUM SECOND
28 INTERROGATORIES TO THOMAS WAITE
AND ANSWERS THERETO - 6

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1 (e) In failing to exercise reasonable care in the entrustment of the
2 pickup to defendant Fossum;

3 With referenced to the above allegation, set forth all facts, information and
4 evidence you have or know of relating to said allegation or which you intend to
5 offer at trial to prove said allegation, including, but not limited to:

6 a. The contents of or copies of all documents containing or referring to
7 such facts, information and evidence.

8 b. The names, addresses and employment of all persons known or believed
9 to have facts, information or evidence relating to or tending to prove said
10 allegation; and

11 c. For each of said persons, set forth a brief narrative of the facts,
12 information and evidence known or possessed by said person, including the
13 testimony which would be offered at trial if said person were called as a witness.

13 **ANSWER:**

14 OBJECTION. Work product. Without waiving Objection, please refer to
15 answer to Interrogatory No. 16. Further, defendant failed to determine if Donald
16 Fossum understood that no one was to ride in the bed of the pickup, and failed to
17 determine at any time whether Donald Fossum had reviewed the owners manual,
18 and whether he knew of the warnings contained within the manual.

19 
20 STEPHEN L. NORDSTROM

21 **INTERROGATORY NO. 18:** At page 5, paragraph number 7.5 of your
22 complaint, it is alleged:

23 As a result of the negligent failure of defendant LDS Church to
24 adequately supervise, train and otherwise protect plaintiff Thomas
25 Waite, he suffered injuries and damages arising from this motor
26 vehicle collision. Thomas Waite has incurred medical expenses to

27 LDS CHURCH/FOSSUM SECOND
28 INTERROGATORIES TO THOMAS WAITE
AND ANSWERS THERETO - 7

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1 the date of this Complaint in excess of \$200,000.00.

2 With referenced to the above allegation, set forth all facts, information and
3 evidence you have or know of relating to said allegation, and specifically that part
4 of the allegation which claims that the Church was negligent in failing to
5 adequately supervise, train and otherwise protect plaintiff; or which you intend
6 to offer at trial to prove said allegation, including, but not limited to:

7 a. The contents of or copies of all documents containing or referring to
8 such facts, information and evidence.

9 b. The names, addresses and employment of all persons known or believed
10 to have facts, information or evidence relating to or tending to prove said
11 allegation; and

12 c. For each of said persons, set forth a brief narrative of the facts,
13 information and evidence known or possessed by said person, including the
14 testimony which would be offered at trial if said person were called as a witness.

15 **ANSWER:**

16 OBJECTION. Work product. Without waiving Objection, please refer to
17 answers to prior interrogatories, including Nos. 13 and 16. Further, testimony
18 indicates that missionaries were riding in the bed of the pickup on a regular basis
19 before Mr. Waite arrived in the Spokane District. His zone leader, who was also
20 his companion and his district leader had each ridden in the bed of the pickup.
21 Neither the zone leader, the district leader, nor the driver to whom the pickup was
22 assigned, warned or indicated to Mr. Waite that he should not ride in the bed of
23 the pickup with a companion missionary. There is also no evidence that the zone
24 leader, district leader or driver were trained or instructed that riding in the bed of
25 the pickup was improper, but based on the example of the leaders within the
26 district, riding in the bed of the pickup was obviously appropriate.

27 
STEPHEN L. NORDSTROM

28 LDS CHURCH/FOSSUM SECOND
INTERROGATORIES TO THOMAS WAITE
AND ANSWERS THERETO - 8

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CERTIFICATION

The undersigned attorney for Plaintiff has read the foregoing Interrogatories and Requests for Production to Plaintiff and answers thereto and they are in compliance with FRCP 26(g). Each objection above, if any, is made by the undersigned.



STEPHEN L. NORDSTROM, WSBA #11267
Attorneys for Plaintiff

LDS CHURCH/FOSSUM SECOND
INTERROGATORIES TO THOMAS WAITE
AND ANSWERS THERETO - 10

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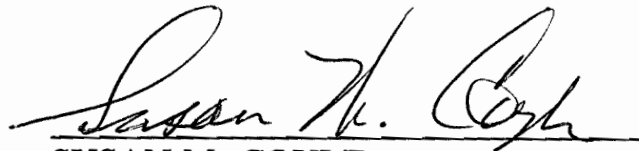
CERTIFICATE OF SERVICE

I certify that on the 27th day of March, 2007, I caused to be served via hand delivery/messenger service the original and two (2) true and correct copies of the foregoing document on the following:

Brian T. Rekofke
Witherspoon Kelley Davenport & Toole
1100 U.S. Bank Building
422 W Riverside Avenue
Spokane, WA 99201

and on said date I caused to be served via hand delivery/messenger service a true and correct copy of the aforesaid document on the following counsel:

Andrew C. Smythe
Paine Hamblen Coffin Brooke & Miller
717 W Sprague Avenue, Suite 1200
Spokane, WA 99201


SUSAN M. COYLE

LDS CHURCH/FOSSUM SECOND
INTERROGATORIES TO THOMAS WAITE
AND ANSWERS THERETO - 11

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